

Merits Panel
Mail Stop Interference
P.O. Box 1450
Alexandria VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Paper 33

Filed July 17, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Hossein Zia, Thomas E. Needham,
and
Muhammad Quadir
Junior Party
(Patent 6,090,368),

v.

Giancarlo Santus; Giuseppe Bottoni,
and
Ettore Bilato
Senior Party
(Application 09/903,665).

Patent Interference No. 105,395 (JTM)
(Technology Center 1614)

JUDGMENT - REQUEST FOR ADVERSE - Bd. R. 127(b)

1 Before SCHAFER, TIERNEY, and MOORE, *Administrative Patent Judges*.

2 MOORE, *Administrative Patent Judge*.

3 On Thursday, July 13, 2006, a conference call was held. Involved, as principal
4 participants, were APJ James T. Moore for the Board, Adda Gogoris, Esq. for party
5 Santus, and Leonard C. Mitchard, Esq. for party Zia.

6 The record of this interference reflects that Zia, the junior party, has not filed its
7 priority statement. Bd. R. 204(a)(1) provides that a party may not submit evidence of its

1 priority in addition to its accorded benefit unless it files a priority statement. Zia cannot
2 prevail on the current record.

3 During the conference call, Zia confirmed that it did not file a priority statement
4 intentionally, would not be filing any motions, would not be defending this interference,
5 and consented to the entry of an adverse judgment against it. We construe these
6 statements as a Request for Adverse Judgment. Bd. R. 127(b)(4).

7 Upon consideration of the Request for Adverse Judgment, it is hereby:

8 **ORDERED** that judgment on priority as to Count 1 (Paper 1, page 5) is awarded
9 against Junior party Hossein Zia, Thomas E. Needham, and Muhammad Quadir.

10 **FURTHER ORDERED** that Junior party Hossein Zia, Thomas E. Needham, and
11 Muhammad Quadir is not entitled to a patent containing claims 1-4 (corresponding to
12 Count 1) of patent 6,090,368.

13 **FURTHER ORDERED** that a copy of this paper shall be made of record in files
14 of application 09/903,665 and patent 6,090,368.

15 **FURTHER ORDERED** that the parties shall direct attention to 35 U.S.C. § 135(c)
16 and 37 CFR § 41.205(a) regarding the filing of settlement agreements.

17

18 /Richard E. Schafer/)
19 ADMINISTRATIVE PATENT JUDGE)

20)

21 /Michael P. Tierney/)
22 ADMINISTRATIVE PATENT JUDGE)

23)

24)

25 /James T. Moore/)
26 ADMINISTRATIVE PATENT JUDGE)

27

BOARD OF PATENT
APPEALS AND
INTERFERENCES

1 cc: via electronic filing

2

3 Attorney for Zia:

4

5 Leonard C. Mitchard

6 Mary J. Wilson

7 NIXON & VANDERHYE, P.C.

8 901 North Glebe Road, 11th Floor

9 Arlington, VA 22203-1808

10 (703) 816-4000

11 (703) 816-4100 fax

12

13 lcm@nixonvan.com

14 mjw@nixonvan.com

15

16

17 Attorney for Santus:

18

19 Adda C. Gogoris

20 S. Peter Ludwig

21 DARBY & DARBY P.C.

22 805 Third Avenue

23 New York, NY 10022-7513

24 (212) 527-7700

25 (212) 527-7701 (fax)

26

27 adda@darbylaw.com

28 pludwig@darbylaw.com

29

30

31

32

33

34

35

36

Townes, Yolunda

From: Townes, Yolunda on behalf of Interference Trial Section
Sent: Monday, July 17, 2006 4:32 PM
To: 'lcm@nixonvan.com'; 'mjlw@nixonvan.com'; 'adda@darbylaw.com'; 'pludwig@darbylaw.com'
Subject: Interference #105395_033 (JTM) - Judgment-Request for Adverse-Bd.R. 127(b)

Judgment - Request for Adverse - Bd.R. 127(b)

Yolunda R. Townes
Paralegal Specialist
Interference Trial Section
571-272-4683

7/17/06